DOCUMENT RESUME

ED 426 828 RC 021 767

AUTHOR Mills, Kay
TITLE "Let Us Put Our Minds Together and See What Kind of Future We Can Build for Our Children" (Sitting Bull, 1876).
INSTITUTION Advocates for American Indian Children, Garden Grove, CA.
PUB DATE 1998-00-00
NOTE 37p.
PUB TYPE Opinion Papers (120)
EDRS PRICE MF01/PC02 Plus Postage.
DESCRIPTORS American Indian Education; Child Advocacy; Child Health; *Child Welfare; Court Litigation; Dropouts; Elementary Secondary Education; Federal Legislation; *Foster Care; Parent Participation; Social Workers; *Transracial Adoption; *Tribal Sovereignty; *Urban American Indians
IDENTIFIERS *California (Los Angeles County); Family Preservation Services; *Indian Child Welfare Act 1978; Mascots (Athletics); Tribal Jurisdiction

ABSTRACT

This article examines foster care and adoption, health, and education of poor Indian children. The paper first explains the Indian Child Welfare Act of 1978, gives a historical overview of injustices done to American Indians, and reviews recent court rulings and federal and state action in regard to the Indian Child Welfare Act. The paper then has a section on health issues concerning Native Americans, including: lack of prenatal care; alcohol abuse; smoking; state money for Indian clinics; and health insurance. The final section discusses education of American Indian children, including: dropout rates; curriculum improvement; and cultural sensitivity training for teachers. (Contains 17 references.) (TD)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED 426 828

"Let Us Put Our Minds Together and See What Kind of Future We Can Build for Our Children"

--Sitting Bull, 1876

By

Kay Mills

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☒ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL HAS BEEN GRANTED BY

Ruth Ann Abrams

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

RC021767

BEST COPY AVAILABLE

'Let Us Put Our Minds Together and See What Kind Of Future We Can Build for Our Children'

--Sitting Bull, 1876

By Kay Mills

Almost one American Indian preschool child in every three lives in poverty in Los Angeles County.

That's higher than the national average. And the numbers don't get much better as children grow up: more than one in five Indian children under 18 lives in poverty in Los Angeles County--about the same rate as children in the county population as a whole. All by themselves, these statistics should be sufficiently alarming to draw attention. But beyond stark numbers, what can it mean to be an Indian child living in poverty in Southern California?

Increasingly, these children live in urban areas where they may lack even the meager services available to reservation Indians. In the Los Angeles area, which has the largest number of urban Indians in the country, they are part of a hidden population. Few people realize that nearly 44,000 Indians live in the county—perhaps 30,000 or 40,000 more if indeed they were undercounted by the 1990 census as some claim. These Indians are spread throughout the county and often ignored by government.

RC 0211767

Many urban Indian children attend schools where teachers don't understand their history. Their sports teams may even have a mascot that is a Brave or a Chief who does funny dances along the football sidelines and embarrasses Indian children while belittling their culture. With few exceptions, there will be no Indian doctor to treat them, no physician sufficiently sensitive to the culture to check for diabetes or trained to recognize the symptoms of fetal alcohol syndrome. The children's families are often poor and may well lack health insurance to pay for doctor's visits anyway. Teenagers may have to drop out of school to work to supplement their families' incomes.

Like other parents, Indians love their children—and many view them as especially important in preserving a vanishing culture. But if one of these Indian families falls on hard times, their children may become wards of the county in the foster care system. There is no Indian advocate at the dependency court to help families understand what's going on around them in the fast-moving, jargon-laden legal proceedings, or to report to the court what steps parents may have taken to get their lives back on track so that they can regain custody of their children. Social workers are often inadequately trained about provisions of the Indian Child Welfare Act (ICWA), designed to preserve Indian families, or sometimes are indifferent to them. Since most of these workers are non-Indian, they also may not understand the Indian concept of family—how grandmas and aunties often help raise children, whether or not the parents are facing financial adversity. And there is such a turnover among social workers that there is constantly a new group needing training. There are not enough Indian foster homes and inadequate financing for

family preservation services. And there is a constant "market" for adoptable children, leading at times to less-than-scrupulous adherence to ICWA.

In short, Indian children who are poor face issues involving foster care and adoption, health and education over and above those encountered by other young people—strictly because they are Indian. If Indians don't raise the issues that concern their children, one social worker said, no one else will. This article examines those three major issues and looks at what advocates in these fields believe should be done to bring nearer reality Sitting Bull's dream of building a better future for Indian children.

The Indian Child Welfare Act of 1978

In 1967, the Devil's Lake Sioux tribe in North Dakota became concerned about who should be allowed to raise a six-year-old named Ivan Brown. He was living with his 63-year-old grandmother. She was not his grandmother by blood but was recognized under tribal custom as such, and had been caring for him since he was born. The Benson County Social Welfare Board had decided that she was too old to continue Ivan's care, and he was placed in a non-Indian home. The Association on American Indian Affairs (AAIA) got involved and after several months Ivan was returned to his grandmother. Afterward, the tribe discovered that one-third of its children were in out-of-home placements, all with non-Indian families.

While this case is more than 30 years old, the placement issue remains a live one. Congress is considering amendments to the Indian Child Welfare Act, passed a

decade after the Devil's Lake Sioux case. Heart-wrenching and controversial cases have drawn national attention either because courts have decided the act didn't apply, because social workers didn't know to ask whether an Indian child was involved in a placement—or didn't bother to ask, or because lawyers have advised clients not to say they are Indians in order to speed up proceedings.

How the Act Was Passed and What It Does

After Ivan returned to his grandmother, the AAIA stayed with the issue, conducting surveys of other tribes—with similar findings about the high rate of placements in non-Indian homes. Surveys conducted in the 1970s showed that, nationwide, 25 to 35 per cent of Indian children were being placed out of their own homes and being raised by non-Indian families. Their out-of-home placement rate was much higher than that for non-Indian children. In Minnesota, for example, a report issued just before the Indian Child Welfare Act was passed found that one out of every eight Indian children was placed for adoption, virtually all with non-Indian families. The rate of Indian adoptions in that state was almost four times higher than that in the non-Indian population. In addition, one out of every 17 Indian children in Minnesota was in foster care.

"Indians do not give up their children," LaDonna Harris, a Comanche activist, said at the time. "Their children are taken away from them."

The AAIA's executive director, William Byler, and its lawyer, Bertram Hirsch, drew up legislation which Democratic Senator James Aborezk of South Dakota

sponsored. The bill passed the Senate in 1978 but several agencies of the Carter Administration did not like the measure, including the Bureau of Indian Affairs, putting it at risk in the House of Representatives. In addition, the bill faced political problems until its sponsors exempted a Mormon Church program that encouraged its families to take Indian children into their homes during the school year (the children returned to their reservations each summer). In the closing hours of the 1978 session, Democratic Rep. Morris Udall of Arizona pushed the bill through the House and President Carter signed it.

The Indian Child Welfare Act is not just about foster care and adoption, important as those subjects are. It goes to the heart of tribal sovereignty. *Who decides who is Indian, state courts or tribes?* The act explicitly gave Indian tribes the right to intervene in Indian child custody cases and established minimum standards for removing Indian children from their families. It set no time limits for invalidating an adoption or foster care placement if the act was violated—and that has created controversy and pain in several cases to be discussed later. The Indian Child Welfare Act is based on the premise that Indian children should be protected from removal from their families or their tribes, and that tribal courts are the best judges of these children's welfare. The act's backers intended that tribes, not state courts, would determine who was Indian and therefore covered by ICWA.

American Indian History : Decades of Tears

To understand the sensitivities underlying the Indian Child Welfare Act, one need only examine American history. It is not a pretty picture. Not only did whites

pushing westward kill many Indians whom they encountered, their government forced tribes to move from their traditional homelands—President Andrew Jackson's orders sending the Cherokees, Choctaws, Seminoles, Chickasaws and Creeks out of the South across a Trail of Tears, for example—and onto reservations. Whites also sought to "civilize the natives" by sending missionaries to the reservations and by taking Indian children away from those reservations to boarding schools, often literally by the wagonload or the truckload. Not only was their land gone, so, too, were their children.

Zitkala-Sa, a Sioux girl of eight years old, was initially excited about going to what she thought would be a more beautiful country than her own, a land where red, red apples grew and where she could ride an iron horse. Too late she realized that she was in the hands of strangers "whom my mother did not fully trust." As she told her story in 1900, she recalled that Indian children's mothers had taught them "that only unskilled warriors who were captured had their hair shingled by the enemy. Among our people short hair was worn by mourners, and shingled hair by cowards." Yet the overseers at her boarding school were dragging resistant children like herself from hiding places and cutting off their thick braids. "Then I lost my spirit." Those who visited the boarding schools boasted of their charity to American Indians, but Zitkala-Sa felt few ever questioned "whether real life or long-lasting death lies beneath this semblance of civilization."

More than 200 Indian schools had been built by 1887. The most famous, perhaps because athlete Jim Thorpe attended it, was the Carlisle Indian School in Pennsylvania. Its founder, General Richard H. Pratt, believed "that the

Indian problem could be quickly solved if the Indians of the United States were distributed one to each county throughout the country."

In the late 1940s, the Bureau of Indian Affairs contracted with the Child Welfare League of America to place Indian children in adoptive white families as far from reservations as possible. This was considered by the whites involved to be in the children's best interest. At about the same time, the federal government began cutting off benefits to tribes and terminated many of them, ordering them to distribute their land and property to their members. In 1953 Public Law 83-280 was passed extending state jurisdiction over Indian tribes. Throughout the 1950s, the government relocated thousands of Indians from reservations to urban areas in hopes that they could find jobs and better educations.

And some urban Indians did make it economically. Statistics from Los Angeles County show that 37 per cent of American Indians owned their own homes (compared to a 48 per cent rate of homeownership overall). But many were left rootless and became unemployed when their skills did not match the needs of a changing economy. Once again, it was the government deciding where Indians should live and sometimes even how they should live. By the late 1960s, federal policy became one of self-determination, but by then many tribes had been wiped out or decimated; distrust was layered over distrust.

Adoption and Foster Care—More Steps Along That Trail

As Indian people fell on hard times—and sometimes into alcohol or drug abuse—social workers entered the picture. If children were neglected—or seemed neglected because a family was in poverty—the answer was often to place them in foster care rather than work with their families to help improve their economic situation or parenting skills. Young Indians who had children and were not married or who found they could not care for their children were encouraged to give them up for adoption, often in non-Indian homes.

Not only were tribes alarmed because children placed in non-Indian homes might lose their culture and thus eventually Indian ways would become extinct, they also feared that psychological harm would be done to the children. Older children placed in non-Indian homes, psychiatrists testified at congressional hearings, could suffer ill effects from being in unfamiliar environments and from having had to break with their parents and their friends, their community "and everything familiar." Younger children might face adjustment problems during adolescence. Dr. Joseph Westermeyer, a social psychiatrist at the University of Minnesota, testified at hearings on the ICWA that he had seen children raised with a white identity who later found "that society was not to grant them the white identity that they had." They faced name-calling, pressures not to date Indian children, and difficulty finding jobs—and they had no Indian family around to support them. "They were finding that society was putting on them an identity which they didn't possess," Westermeyer said, "and taking from then an identity that they did possess."

The Supreme Court Speaks

With passage of the Indian Child Welfare Act, tribes had the tools with which to better protect their children and their heritage. But many state courts ignored the act or felt that they, not the tribes, should determine when it applied. Small wonder then that controversial adoptions still occurred. One such case, *Mississippi Band of Choctaw Indians v. Holyfield*, reached the U.S. Supreme Court.

In Mississippi, a couple enrolled as Choctaw members left their Neshoba County home and went to Gulfport, about 200 miles away where the woman gave birth to twins. About a month later the children were adopted by the Holyfields, who were not Indian. The Choctaws became aware of the adoption two months later and sought to invalidate it because their tribal court should have had jurisdiction. The state court said the tribe had never established jurisdiction over the children because they were born off the reservation. The tribe lost an appeal to the Mississippi Supreme Court and then took the case to the U.S. Supreme Court. Not only did the Supreme Court find that the law was a proper response to the problem Congress perceived of placing Indian children in non-Indian homes, it also ruled that the children retained the domicile of the parents, even though the youngsters had never lived on the reservation. As a result, the court said, under the Indian Child Welfare Act, the tribal court should indeed have had exclusive jurisdiction.

Writing for the court majority, Justice William Brennan said that the court was not unaware that more than three years had passed since the babies were born

and placed in the Holyfield home "and that a court deciding their fate today is not writing on a blank slate. ...Three years' development of family ties cannot be undone, and a separation at this point would doubtless cause considerable pain. Whatever feelings we might have as to where the twins should live, however, it is not for us to decide that question. We have been asked to decide the legal question of who should make the custody determination concerning these children—not what the outcome of that determination should be. The law places that decision in the hands of the Choctaw tribal court. *Had the mandate of the ICWA been followed in 1986, of course, much potential anguish might have been avoided* [emphasis mine]." The court majority said it would defer to the "experience, wisdom, and compassion of the tribal courts to fashion an appropriate remedy." With the principle of jurisdiction established and in the interests of the children, the tribal court then let the adoption by the Holyfields stand.

"The possible removal of the children from their home may cause uneasy feelings in some and that is understandable," commented attorney Jose Monsivais in a 1997 article in the **American Indian Law Review** of the University of Oklahoma College of Law. "What may be difficult for non-Indians to comprehend is that the trauma experienced by Indians due to the erosion of their culture caused by the removal of their children may be just as great."

The Rost Case

No case has drawn more attention to the Indian Child Welfare Act in recent years that that of twins adopted by Jim and Colette Rost of Columbus, Ohio. That adoption was later contested by a Pomo Indian tribe and has generated several attempts to amend the ICWA in significant ways.

The twins, who were four years old when the case was finally settled on December 8, 1997, were born to Rick and Cindy Adams of Long Beach, California. The couple, just into their 20s and with two children already, was struggling with unemployment. The Rosts had one daughter but had been unable to conceive another child, so made arrangements for an open adoption in California. That meant that they could meet the parents of their prospective baby. They did so, and the Adamses agreed to an adoption, but Rick did not disclose his Pomo Indian heritage on the adoption papers. He apparently acted at the suggestion of the adoption attorney, who is now being sued by the Adamses, the Rosts and the Pomos. Colette Rost was present when the twins were born.

Four months later Rick and Cindy Adams separated for a time, and Rick told his mother for the first time about the twins. She was heartbroken. Contacting her tribe in Sonoma County, she enrolled herself, her son and the girls as Pomos, according to court records. The tribe became involved and a Los Angeles County judge ordered the twins returned to the birth parents in the summer of 1995. The state Court of Appeal intervened and stayed the action until a hearing could be held. Later it ruled that the father's enrollment as a Pomo after the children were born

was not sufficient to allow him to assert his rights under the Indian Child Welfare Act. (This is one of the cases involving the "existing Indian family" doctrine to be discussed later.) Eventually, Rick's mother, Karen Adams, decided "it was time for this to end." According to a Los Angeles Times report, she felt the fight would hurt the children and hurt the legislation. A settlement was worked out under which the Adamses and Rosts will exchange visits with the twins and the Rosts will educate themselves and their family in Indian culture.

The Congressional Response

The case may yet affect the law. In 1996, Ohio Republican Representative Deborah Pryce, whose district includes Columbus where the Rosts live, introduced legislation to block ICWA's application to adoptions of children whose parents did not have what some would consider significant affiliation with a tribe. Her bill passed in the House, 212-195, but was changed in the Senate, which took no final action on any measure. In the current Congress, Republican Senator John McCain of Arizona has introduced a bill that might yield a compromise to strengthen the law. It involves more stringent rules on notifying tribes about out-of-home placements but also limits the time in which they may intervene. Who determines Indian identity remains a fundamental issue, and for that reason one should take note of past congressional testimony pro and con.

Testifying before the Senate Indian Affairs Committee in June 1996, Pryce spoke against what she considered "an overly broad interpretation of the ICWA by many courts [that] has gone far beyond the protection and preservation of Indian

families and Native American heritage" as the act intended. "Children in adoptive homes have faced the horrifying possibility of being removed from the only parents and homes they have ever known, even under circumstances where their natural parents were not enrolled members of a tribe, never resided on a reservation, never had any meaningful contact with a tribe or Indian culture...I don't believe Congress could have intended that legitimate, voluntary adoptions be reversed as the result of birth parents joining or being enrolled by another in a tribe after the relinquishment of parental rights, the placement of children in loving homes, and the commencement of adoption proceedings.

"Even those of us, and I am an adoptive parent," Pryce added, "who are adoptive parents can't begin to imagine the heartbreak associated with the loss of a child under some of these circumstances. Who among us could even pretend to understand the horror and pain felt by a child of tender years being removed from the only parents and family he or she has ever known?"

In essence, Pryce would have the federal law and state courts define who is Indian and who is not, rather than allowing tribes to play a key role in that decision. It is precisely that approach that has stirred Indian country to oppose her measure.

Opponents of Pryce's proposals, such as Republican Rep. Don Young of Alaska, call them "anti-Indian family legislation." The Rost case, he testified at the Senate hearing, "is an example of how things can go wrong, but let us not look upon this whole act as one case. Let's say this was a bad case that should never have happened. There was a lawyer who I think was incompetent and that has to be

stressed. Let's not forget the hundreds of thousands of children that previously were excluded from their tribes by actions of certain individuals and adopted out.

"It was a form of a brain drain, it was a form of a genocide that we no longer will acknowledge in American society today, moving young people, infants away from their mothers and fathers without their say so, and putting them into families that had no connection with the tribes or their culture."

The Tulsa Compromise

Trying to ensure both stable adoption placements and protect Indian children and tribes, Indian representatives and adoption professionals discussed amendments to ICWA. The results of their efforts became known as the Tulsa compromise because they began in June 1996 at the Tulsa convention of the National Congress of American Indians. That compromise would limit tribal interventions to certain time periods after notice that parental rights would be terminated or an adoption proceeding begun. At the same time, it would also substantially amend ICWA to specify how and when tribes should be notified of proceedings involving Indian children.

However, the Indian representatives and adoption attorneys dodged a controversial issue: the "existing Indian family" exception to ICWA. This is not part of the original act but has become part of case law in California, Washington State, Oregon, Kansas and Oklahoma because of several court decisions in those states, including the Rost case. Under this controversial doctrine, ICWA is triggered only if

the children involved come from what is called an existing Indian family, that is, if they have had significant contact with their tribe. And under this doctrine it is the state court, not the tribes, which decides what significant contact means. The Tulsa compromise skirted the issue because the tribes and adoption attorneys who drew it up felt its inclusion would disrupt the consensus they had reached. The Senate Committee on Indian Affairs also found it "unnecessary to address this potentially divisive matter" because it felt that many of the cases applying this doctrine might be resolved through the clarifications embodied in S. 569, McCain's bill.

But some urban Indians familiar with the issue would prefer no amendments at all to ICWA rather than any bill that does not eliminate the existing Indian family doctrine as an exemption to the law. They believe urban Indian children might face more and more problems having ICWA applied to their cases because they may not be in close contact with their tribes but they may be considered Indian nonetheless. Tribes, not the courts, they say, should determine whether a child has a spiritual or cultural tie to a tribe even if he or she lacks a geographical bond.

"Our language isn't in there," said Virginia Hill of the Southern Indian Health Council in San Diego, a Seneca who has worked with these issues for 17 years. "We are giving up more than we are getting. We have the right to determine who is Indian and who isn't Indian" in terms of foster case and other child welfare issues.

The last congressional action on S. 569, Senator McCain's bill, occurred last November when the Indian Affairs Committee reported the bill favorably. No Senate action has been scheduled this year.

What Can Be Done

Any law is only as good as its application. Quite apart from any change in the federal law, improvements in existing practices can be made. Two would significantly affect what happens to children before dependency court proceedings ever occur or while they are occurring, one would help add to the pool of Indian foster families and the fourth would help Indian families once they do go to court.

- FAMILY PRESERVATION

In addition to seeking to reduce placement of Indian children in non-Indian homes, the Indian Child Welfare Act calls for funds for programs for family preservation. With the first signs of trouble, parents need help if they are not to lose their children into the jurisdiction of the county. Once that happens, it is hard for families to be reunited and undo the possible damage to the children of their separation. If parents could learn how to handle their children when their patience runs out, if they could receive job training to help them find employment or better jobs, if they learned how to handle alcohol or drug abuse within the home, if they knew that they needed to protect their children's health through immunizations and regular visits to doctors—in short, if they were better able to cope, perhaps they could avoid contact with the foster care system in the first place.

But funds for family preservation services dried up for urban Indians last year even though the amount of money appropriated for Indians nationwide increased.

For example, $3.2 million comes into California for any of nine services specified in the federal regulations governing ICWA, but none goes to Los Angeles County because it has no tribes. The money provided for these services under ICWA, which include family preservation, now goes only to reservations as the result of a policy decision made in Washington. Tribes felt that they didn't have enough money for the services they provided, and that urban Indians could receive services under the same family preservation programs available to all county residents. But they often mistrust programs not run by Indians—not wanting to talk about their family business with people who don't understand their culture—so they obtain fewer services.

Despite the lack of money, the intent of the act is a good one, however. One of ICWA's strengths is that it aims at "providing a series of services that not only are aimed at clarifying the parents' issues and problems but also do so through culturally sensitive services," said Referee Sherri Sobel, who hears all the Indian cases in Department 413 of Los Angeles Superior Court. Thus, the act can perform its mission of protecting children and drawing them and their families back into their culture, she added. "If we can fix the front end [with these services], we're not going to have the problem at the back end," meaning drawing up permanent plans for the children that do not include the parents, Sobel added.

What is clearly needed, therefore, is that more of the federal money for family preservation be designated for Indian services. Some of the ICWA money for family preservation should also be specifically allotted to urban Indians, who now make up the majority of Indians in the country and certainly in Southern California. As Sobel

says, investment up front—when problems first occur—can end up saving money for costly legal proceedings and foster care services when those problems are allowed to fester.

- TRAINING FOR SOCIAL WORKERS

Karen Millett, an Omaha Indian originally from Nebraska, has worked in one way or another with programs involving the Indian Child Welfare Act for more than half a dozen years. Currently she holds a court-appointed post in Department 413 of Los Angeles County Superior Court, which hears dependency issues. She helps identify children and families that are Indian and serves as a liaison with the tribes once they become involved.

"If social workers asked the right questions, there would be no need for me to be involved," she said. The repeated failure to identify children as having Indian heritage when they first come in contact with the child-welfare system—or at most stages along the way—is "a continual problem," Millett said. She estimated that perhaps only about 5 to 8 per cent of cases involving Indian children and families are so identified before they get to court, even though virtually every county form has a place to check American Indian status. To assure compliance with ICWA, its supporters suggest that every family that comes into contact with the child welfare system be asked whether it has Indian heritage, not just those who are known to be Indian or who a social worker thinks "look Indian."

Social workers may not ask families about Indian heritage out of ignorance of the law caused by lack of training, out of indifference or in an attempt to avoid the additional paperwork involved in notifying tribes and certifying that they were contacted. If children were identified as Indian when they are removed from their parents' home in emergencies, Millett said, "nine times out of 10 there is a relative right here in the area who would take the child in that night." Children then would not have to undergo the trauma of being sent to a foster home where they know no one or to an institutional children's center.

Last year, the Indian Child Welfare Advisory Board, a county body, complained to the Los Angeles County Department of Children and Family Services that even its American Indian unit was out of compliance with the law. That unit might notify tribes to try to discern whether a family had Indian heritage but often the notification had been incorrectly done, the board complained. When proper procedures are not followed, cases bog down and children remain longer in legal and even physical limbo. The board offered to provide training for the unit's staff and the department's head accepted that offer, with a training session scheduled in March.

"Once children in these cases are identified as Indian, they can be referred to services provided within the Indian community," Millett said, which she considers a major strength of the act. "There are some really good services out there. Without them, some of these people couldn't get reunited with their children. A lot of American Indians don't want to deal with non-Indians. But if there are Indians who can help them, they'll do what they need to do to get their children back."

- MONEY FOR LOCATING AND TRAINING FOSTER PARENTS

One of the major obstacles to carrying out the Indian Child Welfare Act's intent is the dearth of Indian foster homes. Los Angeles County needs "more and more and more" of them, said Referee Sobel. "The Indian community can assist with outreach" to find these families, she added.

But again, is there sufficient money to do this job?

The Southern California Indian Center has for many years been the agency licensed by the county to locate Indian foster families, to train them and to determine that the homes are physically safe for children. The center currently has 13 certified Indian foster homes, space for 27 children. Estimates are that some 500 Indian children may be in foster care, half of whom have been placed with relatives. That leaves several hundred in non-Indian homes.

The Indian center staff recruits foster parents through public service announcements and at powwows. They help potential foster parents complete the county application package and they provide first aid and CPR training. They also assist foster parents in ensuring that their homes are safe and suitable for children, doing things like helping them put fences around swimming pools and obtaining cribs for infants. Finding foster families requires constant effort because of the turnover. The agency has one foster parent recruiter; money to hire another might help increase the number of families that can be found. Of course, improving the

economic status of many Indian families that may have the heart but not the space or the money to care for foster children would help as well.

- COURT ADVOCATE FOR INDIAN FAMILIES

A morning spent in the dependency court in Monterey Park shows why Indian families might benefit from having an advocate with them in court—and yet how having one more person who is an official part of the proceedings and has to show up might add to delays in finding secure, loving permanent placements for children.

Sherri Sobel, who had been the referee for several months by early March, conducts court at a brisk pace from the bench in Department 413, on the fourth floor of the modern Ed Edelman court building. The courtroom has the standard American and California flags flanking the raised bench where Sobel sits, but in this particular chamber there are also rag dolls and teddy bears on several counters and a Mickey Mouse poster on one wall. Artwork showing Indian scenes hangs in several other spots. Lawyers and social workers occupy semi-circular benches below the referee and a few approved visitors sit on a bench just beyond the bailiff's desk. Families wait in the lobby outside a row of courtrooms until their case is called; then just one lone child and a grandmother or an entire extended family may enter the courtroom and fill the back bench.

Cases may be heard quickly. Despite Sobel's best intentions to keep the proceedings clear, her court, like every other, has its special jargon. This will be a 26 the next time, she'll say, (meaning a proceeding for termination of parental rights) or

let's set this for four units (court code for the length of a proceeding), or a lawyer will ask for a bonding study (to determine attachment between children and their caregiver). It goes by quickly and then one family leaves and the people involved in the next case come in. In the hall, a little girl is crying because she doesn't understand what's going on. Lawyers can come out and explain the most immediate results, but then they often must return to the courtroom to move on to the next case.

If there were an Indian advocate for Indian children and families in dependency court, that person would have the time to explain what happened in court and, where it's applicable, what kind of help parents might need to obtain (parenting classes, say, or drug treatment) in order to regain custody of their children. An advocate's job would in essence pick up where Millett's job description stops. She helps notify tribes to determine whether they want to intervene in a case involving an Indian child and serves as liaison with them when they do intervene—but she does not counsel the families.

La Vonne Otis-Toehay, social services director and ICWA coordinator for the Tonto Apache tribe north of Phoenix in Arizona, has worked in California and firmly believes that advocates are necessary for Indian families. She recalled a case that she handled when she worked in San Diego in which county social workers and lawyers thought they could place a Rosebud Sioux woman's child for adoption because they believed ICWA did not apply. Otis-Toehay stayed on the case and mother and child were reunited. It took a lot of work because the woman didn't always stay in the substance abuse programs in which she enrolled. But eventually

she did. The mother should have had her son back sooner, Otis-Toehay said. The county workers "thought [the adoption] was a slam-dunk situation. I was not very popular with them." Urban Indians, do not receive the same services as Indians on reservations, she said, adding that an advocate could be especially helpful in courts where the judges are not well educated on ICWA. The advocate could help educate the court personnel and county social workers while aiding the Indian family.

Referee Sobel vehemently rejected the idea of an advocate if it was a person who was directly involved in court proceedings. "I don't want to create another layer of bureaucracy. We have enough people involved already," and when just one lawyer or social worker or party to a case doesn't show up, the proceedings must be rescheduled. "We already have enough problems dotting all the i's and crossing all the t's." But she added in an interview that she had no problem with an expert sitting in on the case with and for the family.

Summing Up

The Indian Child Welfare Act should protect Indian children by helping them stay within their families where possible. Ideally, it should help local agencies provide services to help mothers and fathers learn parenting skills or cope with economic pressures. Not enough money is spent on providing these services. The act is also designed to keep Indian children whose parents cannot care for them with Indian relatives or other Indian families. It cannot provide this protection if judges or social workers disregard its requirements to try to find out if Indian children are involved and to notify tribes properly should Indian heritage be claimed. The act has

evidently helped many Indian families; it is unfortunately no higher on many people's priority lists today than protecting Indian children from harm and insensitivity was decades ago.

Health Issues

Dr. Laura Williams, 34 years old, is the first woman from a California Indian tribe to become a physician. There are, she tells me, only about 530 American Indian doctors nationwide.

Think about what the means if you're an Indian and there are so few doctors like you. That dearth of Indian physicians can mean that a doctor is not especially aware that the American Indian population dies younger due to chronic diseases, such as diabetes, and so does not test for those diseases. "If you don't screen the population, that doesn't mean they don't have the problem," Williams said. In fact, American Indians suffer from diabetes three times as much as the national average.

Williams, a Juaneno-Acjachemen Indian who was born in Whittier, California, and received her medical degree from Tufts University in 1991, is trying to do something about lack of cultural awareness. "I may not be able to create more Indian physicians," she told a conference in San Diego in February, but, by teaching at the University of California-Irvine, "I can create more physicians sensitive to Indian health problems."

Asked what is the biggest health problem faced by Indian children, Dr. Williams replied without missing a beat: "Poverty." And that's not poverty of spirit, that's not poverty of tradition, Williams insists.

In addition to a lack of culturally sensitive health care providers, Indians also suffer, in Williams view, from:

- *Multiple socio-economic problems that lead to medical problems*

Poor people simply "do not have the money to buy the correct foods and medicines and to have a healthy lifestyle," Williams said. Substance abuse claims lives, with motor vehicle accidents responsible for 13 per cent of the deaths among Indian boys and men. Almost one-third of the accidents are related to substance abuse.

- *Lack of prenatal care*

Thirteen per cent of American Indian mothers are uninsured, and 10 per cent of the American Indian women in California have had no or late prenatal care. That is a problem, for example, if a woman's blood pressure is not monitored. High blood pressure during pregnancy lowers the flow of blood to the baby, which in turn hinders brain development. Women who have not had good prenatal care may deliver babies too small to thrive or with other health problems.

- *Serious disabling medical problems*

American Indians, in general, die at younger ages than people in other minority groups do. Chronic conditions, such as diabetes or high cholesterol, cause these deaths. The infant mortality rate among American Indians is 1-1/2 times higher than that of non-Latino whites, according to White House statistics cited in February 1998 when President Clinton launched an initiative to eliminate gaps between the health of whites and minorities. Causes of these deaths include Sudden Infant Death Syndrome, congenital anomalies, accidents and infectious diseases, such as meningitis or pneumonia, Williams has found.

- *Alcohol abuse*

Half of urban Indian youths and 80 per cent of those living on reservations have been found to have used (or abused) alcohol before they were 18. The figure is 23 per cent for non-Indian youths.

- *Smoking*

Forty per cent of American Indians in Northern California were found in one study to be smokers—and they started during adolescence.

- *Lack of data or poorly collected data*

"If you don't have the data, you won't get the dollars," Williams says. For that reason, she also studied for a master's degree in public health at Rutgers University. "I had to know how to interpret the data."

In addition to the problems Williams cited, Indian youths also commit suicide at a rate three times that of non-Indian youths, underscoring the need for counseling and other mental health services.

Urban Indians lack convenient health services provided by other Indians. The Indian Health Service provides care only for Indians living on reservations. When an Indian clinic in Bellflower lost its funds several years ago, the people who had received their care there were told they needed to go miles away to Watts. Few Indians live in Watts—which has traditionally been known as a neighborhood where poor African American areas live and which is increasingly becoming a neighborhood of poor Hispanics as well. The Indians didn't want to make that switch, so many didn't receive the care they needed.

"We're afraid to ask for help" or don't know who to ask," Williams said of urban Indians. "But if you live 10 years with diabetes and don't take care of it, you will have much bigger health problems. But there are drugs that can lower blood sugar just like that," she said with a snap of her fingers.

There are, however, two reasons for some optimism:

State money for Indian clinics: California is allocating $3.87 million this fiscal year to 28 Indian health clinics to provide medical outpatient services. So far, however, none of this money is coming to Los Angeles County, said Peggy Barnett, chair of the American Indian Health Policy Advisory Panel for the state's Office of Indian Health. That may change after the UCLA American Indian Studies Center prepares the methodology for an assessment of community health needs and the assessment is completed. In the meantime, the Southern California Indian Center's mobile wellness van has been providing weekly screenings for the Indian community. The State Department of Health's Indian Health program in collaboration with the University of California-Irvine Medical Center funds that project. Williams and several assistants were available for breast exams, Pap smears, mammograms, and blood sugar, blood pressure and anemia screenings for women in February and checked children's health in March.

Health insurance: California Healthy Families is the state's response to federal legislation passed last year increasing health insurance for children. Families earning up to 200 per cent of the poverty level—which is now about $17,000 for a family of four—can purchase low-cost health insurance. This is a particular boon to families whose wage earner has a job that does not provide health insurance. Now it's up to clinics and other agencies serving Indians to let families know that this insurance is available.

Education

American Indians in Southern California won a victory in their quest to banish the use of school mascots and professional team names that they feel caricature Indians and promote racism when the Los Angeles Unified School District voted to change the mascots at four schools. Taking action in September 1997, the city school board told three high schools to drop the names "Braves," "Warriors," and "Mohicans," and a junior high school to stop calling itself "Warriors" as well. A resolution presented to the board said that schools should promote positive images of students' identity groups. However, use of Indian mascot names and images in schools evoked "negative images that become deeply embedded in the minds of students, depicting American Indians in inaccurate, stereotypic, and often violent manners," the resolution added. Birmingham High School, University High School, Gardena High School and Wilmington Junior High School were directed to select new mascots by June 1998. University, Gardena and Wilmington have taken steps to make the change, but a booster group called "Save the Braves" has filed a lawsuit to try to retain the Birmingham High School mascot.

People who want to save the mascots argue that they are not meant to be offensive and that they have been the schools' names for so long that traditional spirit would be dampened if the names were changed. They also cite the expense of obtaining new uniforms for sports teams, repainting signs and similar actions necessitated by dropping Indian mascots. They will say that they feel the names honor Indians rather than make fun of them.

Activists who want the mascots dropped say "they treat us as if we're something to be made fun of. That is not honoring us." They add that sacred objects, such as feather headdresses, are turned into a mockery. "We are a race of people; we are not mascots," one opponent of the mascots said at a San Diego meeting. "You would never see the Atlanta Blacks and thousands of people doing the watermelon chop," said another.

Despite this victory, Indian educators and parents are not having as much luck fighting high dropout rates in their community. In Los Angeles County, the dropout rate among Indian children—21.2 per cent--is topped only by that among Hispanic young people, 26.7 per cent. In addition, Indian children in Los Angeles drop out of school at a rate twice that of Indian children in other urban areas. On the other hand, if they do reach college, those from Los Angeles complete their course of study at higher rates than other urban Indian young people. Like their non-Indian fellow students, Indian children need more counseling services so they will stay in school and take the courses they need for college, as well as more financial assistance to help them once they are admitted.

Students having trouble in school need additional services as well. One program involves continuation school classes offered through the decentralized Central High School in the Los Angeles Unified School District. The classes are held at the Southern California Indian Center with a teacher provided by the school district. This program helps about 40 American Indian students at a time earn their high school diplomas even though they may have had previous difficulty with classwork, attendance or discipline requirements.

The American Indian Education Commission, an agency of the LA Unified School District, has also been conducting literacy programs to try to encourage young people and their parents to read and to show the students that Indians can be authors. In February, Robert Conley from Tahlequah, Oklahoma, visited the program and read from his book, **War Women**, for example.

The district has made strides in curriculum but the textbooks still are not perfect and there are no Native American Studies classes offered in LAUSD, said John Orendorff, Jr., commission director. "We get most of our teachers from Cal State LA," Orendorff said, " and there is not one course there. Many of them went to LAUSD and it had no course. So we get on them for not teaching about American Indians, and it's sort of a Catch-22 situation." Cal State Long Beach and Cal State Northridge do offer Native American Studies courses, but not as many prospective Los Angeles teachers attend those universities.

The commission itself offers several training sessions for LAUSD teachers each year. There will be one in May that offers the teachers and other school personnel one of the points they need to move up the salary scale. The topic of the workshop will be "the powwow," what it means for Indians and how it can be incorporated into the curriculum. Other workshops have focused on the diversity of American Indians, the different tribes, the different cultures, Orendorff said.

Powwows are an important way to show non-Indians some of the elements of Indian culture. Many of the area's powwows are held on university campuses

because it's difficult to arrange such a large event at a public school on a Saturday, Orendorff added. Therefore, it was particularly significant that the Sepulveda Middle School in the North San Fernando Valley hosted a powwow recently, and the school staff was commended by the American Indian Education Commission at a school board committee meeting in March.

Combating dropouts, improving the curriculum, helping train teachers and demonstrating the sensitivities to the mascot issue, then, are key areas of concern for American Indians in the Los Angeles area. What, Orendorff was asked, might the children themselves find as the biggest problems?

"There's a feeling of loneliness, a feeling of being such a tiny minority, of being misunderstood by so many people, of being misidentified as Hispanic or even white," said Orendorff, who is Cherokee. Few people realize that Los Angeles has the largest number of urban Indians in the country—twice the number who live in Tulsa, the second most populous area for Indians. "In a big city like this, there are not many role models for Indian children as there are for other groups."

The bottom line in terms of education for Indian children is the same bottom line that parents of all children see: the public schools are asked to do too much with too few resources. Even the best of teachers burns out or cannot always provide the attention that every child needs to learn and to thrive. Parents must become more involved with their children's schooling and more vocal participants in the political process surrounding education. Again, if Indians do not speak up for their children, no one will.

Written sources for this article:

Duane Champagne, Carole Goldberg-Ambrose, Amber Machamer, Bethany Phillips, and Tessa Evans, **Service Delivery for Native American Children in Los Angeles County, 1996,** a publication of the Advocates for American Indian Children, an initiative of the Interethnic Children's Council, Los Angeles.

Janet Hook, "Clinton Offers Plan to Close Racial Health Gap," **Los Angeles Times,** February 22, 1998.

Molly Ivins, "Mormons' Aid to Indian Children Preserved by New Law," **The New York Times**, December 24, 1978.

Troy R. Johnson, editor, **The Indian Child Welfare Act, The Next Ten Years: Indian Homes for Indian Children,** proceedings of a conference held at UCLA, 1990.

Troy R. Johnson, editor, **The Indian Child Welfare Act: Unto the Seventh Generation**, proceedings of a conference held at UCLA, 1992.

Jose Monsivais, "A Glimmer of Hope: A Proposal to Keep the Indian Child Welfare Act of 1978 Intact," **American Indian Law Review,** University of Oklahoma College of Law, Vol. XXII, no. 1, 1997.

Rose-Margaret Orrantia, **The Indian Child Welfare Act of 1978, A Handbook,** Southern California Indian Center, Los Angeles and Garden Grove, California.

Sloan Philips, "The Indian Child Welfare Act in the Face of Extinction," **American Indian Law Review,** University of Oklahoma College of Law, Vol. XXII, no. 2, 1997.

James Rainey, "Declaring Truce in Adoption Fight," **Los Angeles Times,** December 4, 1997, p. A1.

Ellen L. Slaughter, **Indian Child Welfare: A Review of the Literature**, Center for Social Research and Development, University of Denver, January 1976.

Joan Smith, "Young once, Indian forever," Image magazine, **San Francisco Examiner,** July 3, 1988.

"Tribal Courts Will Settle Custody Cases for Indians," **The New York Times,** December 25, 1978.

United Press International, "Indian adoption stirs cultural tug of war," **San Diego Union,** October 18, 1987.

U.S. Congress, Senate Committee on Indian Affairs, **Indian Child Welfare Act** hearings, June 26, 1996.

Laura A. Williams, "American Indian Health Statistics: An Overview," fact sheet prepared for the 21st Annual California Indian Education and Youth Leadership Conference, San Diego, February 1998.

Terri Williams, "Cultural Tug-of-War," **The Houston Post,** January 8, 1995.

Zitkala-Sa, "The School Days of an Indian Girl, **Women's America: Refocusing the Past**, Linda K. Kerber and Jane Sherron De Hart, Oxford University Press, New York, 1991, pages 286-289 (originally published in **Atlantic Monthly** in January, February and March 1900).